

LABOUR DEPARTMENT

The 22nd November, 1994

No. 14/13/87-6Lab./922.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s Chief Executive Officer, Mewat Development Agency, Gurgaon *versus* Attar Singh :—

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 126 of 1989

between

ATTAR SINGH, C/O SHRI P. S. RAO, LABOUR LAW ADVISER, SHANTI NAGAR, NEAR
NATIONAL HIGHWAY NO. 8, GURGAON

and

THE MANAGEMENT OF M/S CHIEF EXECUTIVE OFFICER, MEWAT DEVELOPMENT
AGENCY, GURGAON

Present :

Shri P. S. Rao, for the workman.

Shri P. R. Yadav, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (in short "the Act"), the Governor of Haryana referred the following dispute between the parties, mentioned above, to this Court for adjudication,—*vide* Haryana Government Labour Department, Endorsement No 10618—23, dated 9th March, 1989.

Whether the termination of services of Shri Attar Singh is just and legal ? If not, to what relief is he entitled ?

2. The facts as contained in the claim petition are that the petitioner was appointed as a Peon on 1st February, 1986 and his services were illegally terminated on 22nd November, 1988 without notice or payment of compensation. The petitioner was then drawing Rs. 550/- per month as salary.

3. Upon notice, the management appeared and filled their reply and took up the plea that the petitioner was employed as Mali-cum-Peon on daily wages on the rates approved by the Deputy Commissioner, Gurgaon and each time services of the petitioner were engaged, an order to that effect was passed on the application and no separate appointment letter was issued. It was pleaded that respondent were the agency of Haryana Government and they were required to fill the vacancies after obtaining Non Availability Certificate from the Employment Exchange. It was pleaded that services of the petitioner were discontinued as the post had been discontinued on 22nd November, 1988,—*vide* letter issued by the Financial Commissioner, Revenue-cum-Chairman, State Implementation Committee, Mewat Development Board, Haryana, Chandigarh memo No. 987-MDB-88/41387, dated 10th November, 1988. It was pleaded that the petitioner was later on appointed as Waterman-cum-gardner by the Principal, Mewat Model School on 20th December, 1988 on *ad hoc* basis and later on on regular grade as a Gardner from 1st April, 1989.

4. In the replication, the petitioner has sought back wages from the date of termination till 20th December, 1988 as he had to run from door to door for a job.

5. On the pleadings of the parties, following issue was framed on 20th October, 1989 :—

1. Whether the termination of services of Shri Attar Singh is just and legal ? If not, to what relief is he entitled ?

6. I have heard authorised representatives of the parties and have gone through the evidence on record. My finding on the issue is as under :—

7. The management was called upon to lead evidence first and they have examined Raja Ram, Accountant, who deposed that the workman was appointed as peon on temporary basis and services were terminated as the post on which he was working was abolished,—vide letter dated 10th November, 1989 and he was drawing a salary of Rs. 550/- per month. It was pleaded that workman was appointed as Waterman in the office of Mewat Model School Nuh and was getting salary in the scale of Rs. 750—870. In the cross examination, it was also revealed that the services of the workman had been regularised with effect from 1st April, 1989. The witness had also disclosed that the Mewat Model School was under the control of Mewat Development Agency.

8. The workman stepped into the witness box as WW 1 and deposed that his services were illegally terminated without any reason and neither any notice nor pay was given. He, however, admitted that the management had not appointed any person on the post (he was working.) He could not say whether Government had abolished the post of a peon in the Mewat Development Agency.

9. No doubt, the workman was appointed as peon in the Mewat Model School on 20th December, 1988 and he was out of job from 22nd November, 1988 till 19th December, 1988. The question which is to be considered is whether the management had complied with the provisions contained in Section 25.F of the Industrial Disputes Act, since the petitioner had completed 240 days. It has been admitted that the petitioner had been working as Mali-um-peon from 1st February, 1986. His services were terminated in November, 1988. According to the management post had been discontinued,—vide letter dated 10th November, 1988. No such letter was introduced in evidence in support of their pleas. The management was under a bounden duty to justify their stand, but they have failed in this regard. No notice or compensation in lieu thereof had been given. The petitioner was no doubt reemployed after about nearly one month but the affect remains that his termination was illegal, as the management had failed to comply with the provisions contained in Section 25 F of the Industrial Disputes Act, as such, it is found that the termination of the petitioner in this case is illegal and he is entitled to reinstatement and wages only for the period from the date of termination till his reemployment i. e. 20th December, 1988. Reference is answered accordingly with no order as to costs.

The 17th October, 1994.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endoresment No. 1626, dated the 31st October, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947,

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.